

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**BILLY JOHN ROBERSON,**

Plaintiff,

v.

**ROWLETT POLICE DEPARTMENT  
and WILLIAM M. BRODAX,  
Chief of Police,**

Defendants.

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Civil Action No. **3:18-CV-2535-L**

**ORDER**

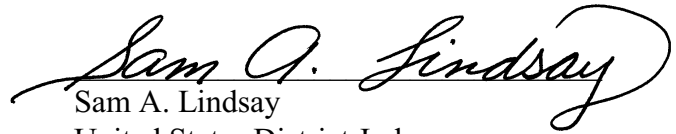
On January 30, 2019, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 21) was entered, recommending that the court construe Plaintiff’s Response to Motion of Dismissal (Doc. 19), filed January 22, 2019, as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and deny the motion. No objections to the Report were filed.

Having reviewed the response or motion, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **construes** Plaintiff’s Response to Motion of Dismissal (Doc. 19) as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and **denies** the motion.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir.

1997). The court **concludes** that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 21st day of May, 2019.

  
Sam A. Lindsay  
United States District Judge